THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 8741 of 2007

DATED: 26-04-2007

Between:

Mohd Nasrullah

…Petitioner

and

Government of Andhra Pradesh, rep. by its
Secretary, Municipal Administration Department,
Hyderabad and others

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.No. 8741 of 2007

Oral order:

This writ petition is based on an apprehension, which has no basis in fact.

The petitioner claims to be the owner of premises bearing No. 2-3-725, Amberpet, Hyderabad comprising two shops, which are leased out to others. According to the petitioner, the demolition squad lead by Sri Ashok Singh came to the premises and informed the petitioner that the mulgies would be demolished on 21-4-2007 and that the petitioner should cooperate for the road widening. Admittedly, no notice or proceedings are initiated for acquisition of the property. It is alleged that the boundary wall of the petitioner's brother's shop was demolished by the MCH squad earlier. Under the provisions of the Hyderabad Municipal Corporations Act, 1965, the respondents should acquire the property by negotiation or by a notification for acquisition. Physical possession of private property cannot be taken by any public servant else such public servant would be liable for criminal prosecution as well as severe disciplinary proceedings. A citizen has also a right to resist illegal dispossession of his property including by a public officer, by using countervailing force. The petitioner may also complain to the nearest and jurisdictional police station against the criminal activity of any public servant of illegally trying to dispossess the citizen from his property. The petitioner also has a remedy to approach the civil court of competent jurisdiction for injunctive relief. The petitioner has available a plurality of remedies against any

person, including a person in public office, abusing his public office or under the colour of such office, seeking to dispossess a citizen of his property without following the due process of law. This court discerns no merit in the writ petition at this stage in the circumstances.

The writ petition is accordingly dismissed granting liberty to the petitioner to avail appropriate remedy as and when cause of action arises and before the appropriate forum. There shall be no order as to costs.

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GODA RAGHURAM, J

26-04-2007
GRR